

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ARTHUR QUEE,)
)
)
Plaintiff,)
)
)
v.) 1:15CV76
)
DEAN CAPUTO, et al,)
)
)
Defendant(s).)

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a prisoner of the State of North Carolina, submitted a civil rights action pursuant to 42 U.S.C. § 1983, together with an application to proceed *in forma pauperis*. The form of the Complaint is such that serious flaws make it impossible to further process the Complaint. The problems are:

1. The filing fee was not received nor was a proper affidavit to proceed *in forma pauperis* submitted, with sufficient information completed or signed by Plaintiff, to permit review. Plaintiff submitted an *in forma pauperis* application, but the form he used does not provide the balance of his prison trust account or the amounts deposited into that account during the past six months. This information is required for prisoners in order for the Court to calculate any initial partial payment of the applicable filing fee.
2. Plaintiff does not appear to state any viable claim for relief. Plaintiff seeks to enjoin an order of removal that will result in his deportation to Sierra Leone. However, it is not likely that the Court would have jurisdiction over such a claim. See Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471 (1999); 8 U.S.C.A. § 1252(g). Further, Plaintiff's only claim is that deporting him to Sierra Leone would constitute cruel and unusual punishment. However, this is incorrect given that deportation is a purely civil matter and, therefore, not any type of punishment at all. See Eid v. Thompson, 740 F.3d

118, 125-26 (3rd Cir. 2014).

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiff filing a proper action which corrects the defects of the present Complaint.

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation.

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new action which corrects the defects cited above.

This, the 29th day of January, 2015.



Joe L. Webster
United States Magistrate Judge